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STATE RESPONSIBILITY

Report of the Working Group

1. At its 2477th meeting, on 15 May 1997, the Commission established a Working Group on State Responsibility 1/ to address matters dealing with the second reading of the topic.

2. The Working Group held two meetings from 20 May to 30 June.

3. Since the topic deals with a number of important and delicate issues and Governments had not yet responded to the request for written comments (which were requested by 1 January 1998), the Working Group decided to limit its discussion to certain procedural and methodological issues viz. (i) the work plan of the topic within the present quinquennium; (ii) identification of any areas where more work was required, e.g. in the light of developments since the provisional adoption of the draft article in question; and (iii) the procedures to be followed for the second reading.

4. As regards the first issue, the Working Group agreed that the Commission should design its work plan for the quinquennium with a view to allowing the completion of the second reading of the topic of State responsibility by the end of its quinquennium. To this end it is recommended that the Commission give appropriate priority to this topic during the quinquennium.

5. As regards the second issue, the Working Group agreed that the Commission, taking into account comments by Governments and having regard to the significant links which exist between various key issues should consider in 1999, if possible, the character of the draft articles.

1/ Mr. J. Crawford (Chairman), Mr. I. Brownlie, Mr. J. Dugard, Mr. Q. He, Mr. P. Kabatsi, Mr. J. Kateka, Mr. T. Melescanu, Mr. D. Opertti-Badan, Mr. G. Pambou-Tchivounda, Mr. R. Rosenstock, Mr. B. Simma, Mr. C. Yamada and Mr. Z. Galicki (Ex Officio)

6. As regards the third issue, the Working Group agreed on the following procedure:

(1) The Commission should follow the usual practice of the appointment of a Special Rapporteur to prepare reports for consideration by the Commission, bearing in mind in particular that a significant amount of intersessional work will be required;

(2) The Commission should proceed to the appointment of a Special Rapporteur for the topic at the present session.

(3) In its consideration of the topic, the Commission should follow the usual practice of debates in plenary followed by reference of articles to the Drafting Committee. In addition, and to expedite its work on the topic, the Commission, following its recommendations for its methods of work, [2] should establish working groups to consider and report on key issues.

(4) As regards the treatment of key issues, the Working Group agreed that comments by Governments are of particular relevance. In addition, an examination of case law and literature could also serve as a useful guide in determining whether there are any lacunae in the articles, or whether particular articles may require modification in the light of recent developments in international law. The latter was found particularly relevant to the articles of Part One completed in 1980.

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[2] See Official Records of the General Assembly, Fifty-first Session, Supplement No. 10 (A/51/10), paras. 203-220.

Annex */

Proposed Timetable of Work (1997-2001)

NOTE: Consideration needs to be given as to the strategy of reporting to the Sixth Committee. It is suggested that one major opportunity be given for discussion and feedback in 1999, but that in other years only brief and general reports on progress should be included in the Commission's Report.

1997:	Working Group; Appointment of Special Rapporteur
1 January 1998:	Due date for State Comments on Draft Articles
1998:	First Report (Part 1, review of draft articles (except Article 19): overview of issues relating to State crimes)
	Plenary debate on First Report: reference of initial articles to Drafting Committee Working Group (preliminary consideration of form of draft articles; possible approaches to State crimes)
	Consideration (time permitting) of initial Part 1 articles by Drafting Committee
	Plenary consideration of report of Working Group and (if applicable) Drafting Committee
1999:	Second Report (Article 19 and Part 2 (except countermeasures); overview of issues relating to countermeasures)
	Plenary debate on Second Report: reference of remaining articles in Part 1 and, if possible, Part 2 (except countermeasures) to Drafting Committee
	Substantial consideration of Parts 1 and 2 in Drafting Committee
	Working Group (possible approaches to countermeasures)
	Plenary consideration of reports of Working Group and Drafting Committee; (possibly) provisional adoption of revised Part 1 and commentaries
2000:	Third Report (Countermeasures, overview of issues relating to settlement of disputes)

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*/ The proposed timetable is to facilitate the work of the Planning Group in designing the Commission's work plan for the quinquennium.

Plenary debate on Third Report: reference of remaining Articles in Part 2 to Drafting Committee

Substantial consideration of any remaining articles in Part 1, and of Part 2, in Drafting Committee

Working Group (settlement of disputes; other outstanding issues)

Plenary consideration of reports of Working Group and Drafting Committee; (possibly) provisional adoption of Revised Part 2 and commentaries

2001: Fourth Report (Part 3; any other outstanding issues)

Plenary debate on Fourth Report; reference of Part 3 to Drafting Committee

Completion of Draft Articles by Drafting Committee

Plenary consideration of Report of Drafting Committee; adoption of Draft Articles and Commentary, and of Commission's resolution thereon.